

FILED

OCT 3 - 2016

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
DEPUTY

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID ANDREW DIEHL,

Defendant.

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CRIM. NO. A-10-CR-297(01)-LY

MOTION FOR IN CAMERA REVIEW

NOW COMES the Defendant, David Andrew Diehl, pro se, with this Motion for In Camera Review, and in support of the foregoing respectfully sets forth as follows:

1. Presently before this Court is the Government's motion for protective order seeking to prevent Defendant from obtaining a copy of his file in the above-referenced matter, from his attorney, Mr. Gerry Morris, Esq.

2. Both Mr. Morris, and this Defendant, pro se, have filed oppositions, and this Court has assigned Magistrate Mark Lane for a report and recommendation.

3. Inasmuch as the materials sought are attorney-client, and do not fall within the scope of 18 U.S.C. § 3509(d), Defendant respectfully request this Court conduct an in camera review of said materials.

4. Numerous courts have required the in camera submission

of privileged materials for a variety of reasons, chief among them determining whether a privilege exists. See, e.g., United States v. Zolin, 491 U.S. 554 (1989) (in camera review required to determine if crime-fraud exception applies); United States v. Nixon, 418 U.S. 683 (1974) (in camera inspection required to determine if executive privilege applies); and United States v. Parker, 586 F.2d 422 (5th Cir. 1978) (in camera review to determine existence of attorney-client privilege).

**WHEREFORE**, your Defendant respectfully moves this Court grant the following relief:

A. Grant the foregoing motion and conduct an in camera review for the purpose of determining what, if any, materials are not disclosable, in light of § 3509, and the exemptions contained therein; and

B. Grant such other and further relief as this Court may deem just, equitable, and fair.

Respectfully submitted,

Dated: 9-28-16

David A. Diehl  
David Andrew Diehl  
P.O. Box 1034  
Coleman, FL 33521

Certificate of Service

I, Andrew A. Diehl, hereby certify that on the above given date a true copy of the foregoing motion was mailed, first class postage, ppd., to AUSA Matthew Devlin, and Mr. Gerry Morris, by giving in hand to an institutional mail officer.

Signed under penalty of perjury on this the 26th day  
of September, 2016.

/s/ David A. Diehl  
David Andrew Diehl

RECEIVED

OCT 3 2016

Clerk of Court,

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY [Signature]

DEPUTY

Please file the enclosed motion in the criminal matter United States v. David Andrew Diehl, Crim. No. A-10-CR-297(01)-LY.

Respectfully,

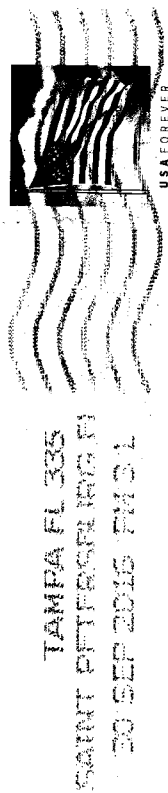
David A. Diehl, Pro Se

David A. Diehl

9-29-16

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